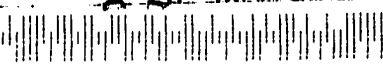


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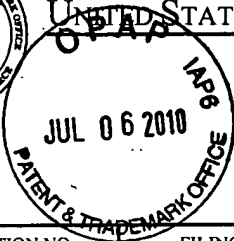
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,830	06/27/2007	Michael J. Macaluso		6308

7590 06/18/2010  
MICHAEL J. MACALUSO  
78 FOREST GLEN DRIVE  
HIGHLAND PARK, NJ 08904

EXAMINER

THOMPSON, BRADLEY E

ART UNIT	PAPER NUMBER
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2612

MAIL DATE	DELIVERY MODE
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06/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

RECEIVED  
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# Office Action Summary

## Application No.

10/583,830

## Applicant(s)

MACALUSO ET AL.

## Examiner

BRADLEY E. THOMPSON

## Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date Dec 27 2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Status of Claims*

1. This is in response to the application filed on 06/22/2006. Claims 1-11 are presented for examination.

### *Drawings*

2. The drawings submitted on 06/22/2006 are acknowledged.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. **Claim 6** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what does the claimed "Application profile" refer to?

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
6. **Claims 1-2** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (US Patent Application Pub 2001/0028678; Kato) in view of Johnson et al. (US Patent

Art Unit: 2612

5,909,463; Johnson).

**Claim 1:**

Kato is drawn to apparatus and method for communication over power lines (PLC) (paragraph 1) which has transmit and receive capabilities (figure 1). He exhibits modules (figure 1) for producing electrical signals in accordance the PHY layer of a network protocol layer (paragraph 58). He discloses wherein his apparatus is able to operate in DMT communication mode or OFDM communication mode (paragraph 1) (reads on a power line communications "PLC" device having at least one of communications data transmission and reception capabilities comprises a physical communications protocol layer module adapted for operating in accordance with a plurality of communications signal transmission operating modes).

Kato exhibits IFFT 4 and FFT 14 modules (figure 1) which implement transform processing on data streams (reads on wherein the physical layer module includes a module for performing Fourier transform operations). However, he fails to disclose a selection module which serves to change communication operation modes.

In an analogous art, Johnson relates to a software adaptable transceiver on a single chip which has the capability to change operating modes. He exhibits a DSP core 60 which is tied to the FFT modules 73 via the PIO\_EB bus 62 (figure 2) (column 15 lines 58-59). The DSP core 60 has the capability to configure the transceiver for various operating modes (column 9 lines 32-53) (reads on a selection module coupled to the Fourier transform module, wherein the selection module provides for selection of a communications operating mode for the PLC device from the plurality of communications transmission modes, wherein each of the modes corresponds to a transmission data structure defined in accordance with power line

Art Unit: 2612

network operating characteristics and communication protocol requirements).

Further, Johnson teaches wherein the FFT and IFFT modules are dynamically configurable (column 16 lines 38-40) (column 17 lines 3-5) (reads on wherein the Fourier module is dynamically configurable to perform data processing operations in accordance with a selected communications signal transmission operating mode).

Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kato with the DSP core of Johnson in order to invoke adaptability in a communication device (as taught by Johnson). A modification as such represents an improvement to Kato and would have predictable results.

Kato exhibits P/S 5 and S/P 15 modules tied to IFFT and FFT units respectively (figure 1) (reads on a module for converting between parallel and serial symbol data coupled to the selection module; wherein the symbol data converting module processes a transmission data block for the power line network based on the operating mode selected by the selection module).

**Claim 2** (see claim 1):

Johnson exhibits HPI module 68 which receives commands via the control port. DSP core 60 is in bidirectional communication with HPI (column 5 lines 43-48) (reads on wherein the selection module automatically selects the mode based on control data).

**Claim 3** (see claim 1):

As discussed in the rejection of claim 1, Kato discloses a PLC apparatus with an OFDM mode of operation (reads on wherein the modes include at least one of a wavelet-like filtered and a conventional OFDM-based communications operations modes, and wherein the at least one modes are operable on electric power lines having predetermined operating voltages and

Art Unit: 2612

frequencies).

**Claim 8** (see claim 1):

As discussed in the rejection of claim 1, Johnson teaches a single chip transceiver (reads on wherein a portion of at least one of the Fourier transform, selection and data converting modules is implemented using a system-on-a-chip architecture).

**Claim 9** (see claim 8):

Kato teaches Reed-Solomon FEC on the data (paragraph 59) and, as discussed in the rejection of claim 1, exhibits an S-P module. Johnson exhibits frequency equalization FEQ 106 (figure 3) and teaches single-chip architecture (reads on wherein the PLC device further includes at least one of a module for performing error correction, a module for performing data mapping, an equalization module and a module for converting between serial and parallel data, and wherein a portion of at least one of the error correction module, data mapping module, equalization module and data converting module is implemented using the system on a chip architecture).

**Claim 10** (see claim 1):

Johnson recites a software FFT 20 (figure 1) (column 4 line 48) and, as discussed in the rejection of claim 1, teaches a DSP core for mode selection wherein the DSP core is programmable (reads on wherein at least one of the Fourier transform, selection and data converting modules is implemented in software).

**Claim 11** (see claim 1):

Claim 11 is interpreted and thus rejected for the same reasons put forth in the rejection of claims 1, 9.

7. **Claims 4-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato and Johnson in further view of McFarland (US Patent Application Pub 2002/0006167; McFarland).

**Claim 4** (see claim 1):

Kato and Johnson fail to disclose mode selection based on dynamic analysis of the communication channel.

In a field of similar endeavor, McFarland is directed to an OFDM or DMT communication system which includes a means to select the operating mode based on explicit channel measurements (abstract). In particular, he teaches a means for setting the operating mode based on measurement of channel characteristics (paragraphs 49-50) (reads on wherein the selection module selects a mode based on data obtained from dynamic channel analysis of the power line network).

Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kato and Johnson with selection means of McFarland since it serves to optimize system performance due to channel degradation or noise (McFarland paragraph 50).

**Claim 5** (see claim 1):

Kato and Johnson fail to disclose mode selection based on a communications profile.

In a field of similar endeavor, McFarland teaches a means for setting the operating mode based on multiple inputs e.g. mode forcing from protocol control (figure 10) (paragraph 45) (reads on wherein the selection module selects a mode based on data representative of communications profile requirements of the power line network).

Hence, it would have been obvious to one of ordinary skill in the art at the time of the



Art Unit: 2612

invention to modify Kato and Johnson with selection means of McFarland since it allows the system to communicate with legacy nodes (McFarland paragraphs 45, 57).

**Claim 6** (see claim 1):

Kato and Johnson fail to disclose mode selection based on an applications profile.

In a field of similar endeavor, McFarland teaches a means for setting the operating mode based on a priori knowledge (paragraphs 46-47) (reads on wherein the selection module selects a mode based on data representative of an application profile).

Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kato and Johnson with selection means of McFarland since it allows the system to communicate with efficiency.

**Claim 7** (see claim 1):

Kato and Johnson fail to disclose mode selection based on the size of a symbol relative to a communications profile.

In a field of similar endeavor, McFarland teaches a means for setting the operating mode based on symbol rate and number of carriers (figure 10) (paragraphs 44, 45) (reads on wherein the selection module selects a mode based on the size of a symbol corresponding to an identified communications connection oriented profile).

Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kato and Johnson with selection means of McFarland since it allows the system to communicate with legacy nodes (McFarland paragraphs 45, 57).

***Citation of Pertinent Art***

Art Unit: 2612

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 2002/0031226 May 14 2002 Simonsen et al.

US 5,497,398 May 5 1996 Tzannes et al.

*Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRADLEY E. THOMPSON whose telephone number is (571)270-5583. The examiner can normally be reached on M-F 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BRADLEY E THOMPSON  
Examiner  
Art Unit 2612

/BET/

/Daniel Wu/  
Supervisory Patent Examiner, Art Unit 2612

<b>Notice of References Cited</b>	Application/Control No. 10/583,830	Applicant(s)/Patent Under Reexamination MACALUSO ET AL.	
	Examiner BRADLEY E. THOMPSON	Art Unit 2612	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,497,398 A	03-1996	Tzannes et al.	375/260
*	B	US-5,909,463 A	06-1999	Johnson et al.	375/220
*	C	US-2001/0028678 A1	10-2001	Kato et al.	375/222
*	D	US-2002/0006167 A1	01-2002	McFarland, William	375/260
*	E	US-2002/0031226 A1	03-2002	Simonsen et al.	380/255
*	F	US-6,952,441 B2	10-2005	Peeters, Miguel	375/222
*	G	US-2007/0121676 A1	05-2007	Koga et al.	370/482
*	H	US-2007/0223360 A1	09-2007	Ichihara, Fumio	370/204
*	I	US-2007/0279196 A1	12-2007	Macaluso et al.	340/310.12
*	J	US-7,561,614 B2	07-2009	Kodama et al.	375/145
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

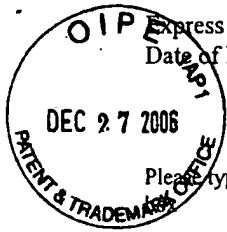
**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
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\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Receipt date: 12/27/2006

10583830 - GAU: 2612



Express Mail Label No.: EV 873 102 532 US  
Date of Deposit: December 27, 2006

Attorney Docket No. 34585-515 NATL

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<b>Modified Form 1449/PTO</b>  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)	Application Number	10/583,830
	Filing Date	June 21, 2006
	First Named Inventor	Michael MACALUSO
	Group Art Unit	Not Yet Assigned
	Examiner Name	Not Yet Assigned
	Attorney Docket Number	34585-515 NATL

U.S. PATENT DOCUMENTS							
Exam Initials	Cite No.	U.S. Patent Document No.	Issue Date	Name of Patentee(s) or Applicant(s)	Class	Sub Class	Filing Date If Appropriate
		20010028678	May 8, 2001	Kato et al.			
		20020006167 A1	April 20, 2001	McFarland			
		7,075,941 B2	March 1, 2001	Liu et al.			
		5,909,463 A	November 4, 1996	Johnson et al.			

FOREIGN PATENT DOCUMENTS						
Exam Initials	Cite No.	Foreign Patent Office	Document Number	Name of Patentee(s) or Applicant(s)	Date of Publication	Translation Yes No

OTHER PRIOR ART - NON-PATENT LITERATURE DOCUMENTS		
Exam Initials	Cite No.	Name of Author, Title (when appropriate), Publication, Volume, Page(s), Date, Etc.
	D1	Lee et al. "HomePlug 1.0 powerline communication LANs - protocol description and performance results", International Journal of Communication Systems, Volume 16, Issue 5, Pages: 447-473, June 2003
	D2	Rauschmayer, "ADSL/VDSL Principles", Macmillan Technical Publishing, page 171, 1999
	D3	ITU-T "G.992.1 Recommendation", ITU-T, pages 9-13, June 1999
	D4	Gardner "HomePlug Standard Brings Networking to the Home", Communication Systems Design, Volume 6, Number 12, December 2000
	D5	Lee et al. "HomePlug 1.0 powerline communication LANs - protocol description and performance results version 5.4", International Journal of Communication Systems, Pages: 1-25, 2000
Examiner Signature	/Bradley Thompson/	
	Date Considered	06/07/2010

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

NYC 379087v.1

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /B.T./